

SENATE JOINT RESOLUTION 6

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By: **Senator Middleton**

Introduced and read first time: February 4, 2011

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 16, 2011

RESOLUTION NO. _____

1 A Senate Joint Resolution concerning

2 **Safe Harbor Legislation and Regulations Needed to Form Accountable Care**
3 **Organizations**

4 FOR the purpose of urging ~~the United State Congress and~~ the Federal Trade
5 Commission, the Department of Justice, and the Department of Health and
6 Human Services to ~~pass legislation and~~ adopt regulations to guide the
7 development of accountable care organizations and ~~establishing~~ establish
8 certain safe harbors that will allow ~~physicians~~ health care providers to
9 collaborate in certain health insurance marketplaces and form and deliver care
10 through accountable care organizations; requesting that the United States
11 Congress consider whether additional legislation, including antitrust safe
12 harbor protections, is desirable for a certain purpose; and generally relating to
13 safe harbor legislation and regulations needed for accountable care
14 organizations.

15 WHEREAS, The federal Patient Protection and Affordable Care Act encourages
16 physicians, hospitals, and other health care providers to form accountable care
17 organizations that would jointly take responsibility for coordinating the cost and
18 quality of care of patients, particularly patients who are Medicare beneficiaries; and

19 WHEREAS, Federal antitrust law, including the Clayton Antitrust Act, has
20 restricted the ability of physicians, hospitals, and other health care providers to
21 collaborate in forming accountable care organizations; and

22 ~~WHEREAS, Within the last 10 years an increase in the concentration of the~~
23 ~~health insurance industry has resulted in most health insurance marketplaces being~~
24 ~~dominated by one or two large carriers; and~~

EXPLANATION:

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken by amendment.



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1 ~~WHEREAS, CareFirst presently controls between 65% to 80% of the health~~
2 ~~insurance marketplace in Maryland; and~~

3 ~~WHEREAS, The high concentration of insurer control of health insurance~~
4 ~~marketplaces places physicians in an unfair negotiating position with the insurers~~
5 ~~that control the marketplaces; and~~

6 ~~WHEREAS, The passage of recent federal health care legislation included~~
7 ~~provisions promoting the formation of accountable care organizations; and~~

8 WHEREAS, Accountable care organizations must be formed to provide high
9 quality health care coverage for Americans; and

10 WHEREAS, The ability of physicians and other health care providers to
11 effectively form accountable care organizations is hindered by the interpretation and
12 enforcement of federal antitrust law; and

13 WHEREAS, Physicians and other health care providers can form accountable
14 care organizations only if antitrust safe harbors are developed; and

15 WHEREAS, The Federal Trade Commission ~~is~~ and the Department of Justice
16 are considering new proposals to develop antitrust safe harbors for ~~physicians~~ health
17 care providers collaborating to form accountable care organizations; and

18 WHEREAS, The Department of Health and Human Services is developing
19 guidance regarding the formation of accountable care organizations; now, therefore, be
20 it

21 RESOLVED BY THE GENERAL ASSEMBLY OF MARYLAND, That the
22 General Assembly of Maryland urges ~~the United States Congress and the Federal~~
23 ~~Trade Commission to pass legislation and, the Department of Justice, and the~~
24 Department of Health and Human Services to act expeditiously to adopt regulations
25 that will guide the development of accountable care organizations and establish
26 antitrust safe harbors for physicians, hospitals, and other health care providers to
27 ~~collaborate in health insurance markets dominated by one or two health insurers and~~
28 form and deliver care through accountable care organizations; and be it further

29 RESOLVED, That the General Assembly of Maryland requests the United
30 States Congress to consider whether additional legislation, including antitrust safe
31 harbor protections, is desirable to ensure that the potential value of health care
32 delivery system reforms, including formation of accountable care organizations, can be
33 fully realized; and be it further

34 RESOLVED, That a copy of this Resolution be forwarded by the Department of
35 Legislative Services to the Honorable Harry Reid, United States Senate Majority
36 Leader, Senate Office Building, Washington, D.C. 20510; the Honorable John Boehner,

1 Speaker of the United States House of Representatives, House Office Building,
2 Washington, D.C. 20515; the Honorable Jon Leibowitz, Chairman of the Federal Trade
3 Commission, 600 Pennsylvania Avenue NW, Washington, D.C. 20580; the Honorable
4 Eric Holder, Attorney General of the United States, 950 Pennsylvania Avenue NW,
5 Washington, D.C. 20530; the Honorable Kathleen Sebelius, Secretary of the
6 Department of Health and Human Services, 200 Independence Avenue SW,
7 Washington, D.C. 20201; and the Maryland Congressional Delegation: Senators
8 Barbara A. Mikulski and Benjamin L. Cardin, Senate Office Building, Washington,
9 D.C. 20510; and Representatives Andrew P. Harris, C. A. Dutch Ruppersberger, III,
10 John P. Sarbanes, Donna Edwards, Steny Hamilton Hoyer, Roscoe G. Bartlett, Elijah
11 E. Cummings, and Christopher Van Hollen, Jr., House Office Building, Washington,
12 D.C. 20515.

Approved:

President of the Senate.

Speaker of the House of Delegates.